**HIGH COURT OF UTTARANCHAL AT NAINITAL**

**C-482 NO. 984 OF 2006**

Rajaram,
S/o Nakliram,
R/o Village-Bahadurpur Jutt,
Police Station-Pathri,
District-Haridwar.

.....Applicant.

Vs.

1. State of Uttaranchal.
2. Judicial Magistrate, Haridwar,
   District - Haridwar,
3. K.P. Tamta, Sub Inspector,
   Police Station - Kankhal, District- Haridwar.

.....Opp. Parties.

**Hon'ble Rajesh Tandon, J.**

Heard S.K. Shandilya, counsel for the applicant and A.G.A. for the State.

2. By the present application filed under Section 482 of the Code of Criminal Procedure, the applicant has prayed for setting aside the order dated 24th Decem ber, 2005 passed by the Judicial Magistrate, Haridwar in case No. 1120 of 2005 State v. Brijpal and others under Section 408, 411, 120B of I.P.C. Police Station-Kankhal, District-Haridwar.

3. Briefly stated, an FIR was lodged on 28th May, 2005 about the incident, which took place on 28 th May, 2005

stating therein that the respondent no. 3 was on patrol duty and the cement was stolen from the store room of Ganga Pradooshan Niyantran Ekayee Vibhag. Opposite party no. 3 Sri K.P. Tamta-Sub Inspector went on the spot with the Police Team, where he saw one person standing near Bullock-cart and two other doing transaction of money with the third person.

4. Without entering into the merit of the controversy, since the FIR has been lodged, therefore, there is no occasion to short-circuit the trial in view of ***Medchl Chemicals & Pharma (P) Ltd. v. Biological E. Ltd. (2000) 3 SCC 269,*** where it has been held as under:

> *"19. Considering the factual aspect of the matter, we unhesitatingly state, however, that the issue involved in the matter under consideration is not a case in which the criminal trial should have been short- circuited. We, thus, without expressing any opinion on the merits of the case allow the appeal and set aside the impugned order of the high Court and restore the complaint. The learned trial Magistrate shall proceed with the complaint and dispose of the same in accordance with the law with utmost expedition. Be it clarified however that observation as above in this judgment be not taken as an expression of any opinion of ours."*

5. However, the Presiding Officer is directed to expedite the release of the applicant on bail as expeditiously as possible.

6. Subject to aforesaid, application filed under Section 482 of the Code of Criminal Procedure lacks merit and is dismissed.

(Rajesh Tandon, J.)

02.12. 2006
*Rathour.*